

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

DONALD JEROME THOMPSON, III,)	
)	
Plaintiff,)	
)	
v.)	Civ. No. 08-195-SLR
)	
SCOTT KASPRENSKI and)	
PHILLIP A. DUNNING,)	
)	
Defendants.)	

MEMORANDUM ORDER

At Wilmington this ~~18~~¹⁵ day of September, 2010, having conducted an in camera inspection of submitted discovery documents;

IT IS ORDERED that:

1. **Background.** Plaintiff Donald Jerome Thompson, III ("plaintiff"), an inmate housed at the James T. Vaughn Correctional Center ("VCC"), Smyrna, Delaware, filed this lawsuit pursuant to 42 U.S.C. § 1983. He is now represented by counsel. (See D.I. 109) Plaintiff alleges that defendants C/O Scott Kasprenski ("Kasprenski") and Phillip A. Dunning ("Dunning") (together "defendants") violated his Eighth Amendment rights on February 7, 2007, when Kasprenski used excessive force and Dunning failed to protect plaintiff from Kasprenski. Plaintiff also alleges a state claim of assault and battery.

2. **Internal Affairs Investigation** In a previous filing, Dunning advised the court that he is willing to make the internal affairs report available for review by the plaintiff, at a time and place within the institution, but objects to plaintiff copying or otherwise reproducing any portion of the report. (D.I. 83) The court has considered the probative value of the internal affairs report versus the interest of the Delaware Department of

Correction in conducting inquiries into potential misconduct free of the specter that the results of the investigation will be used against it in subsequent litigation. See *Garden v. Sutton*, 683 A.2d 1041 (Del. 1996). In light of the investigative findings, Dunning shall make the internal affairs report available for review by plaintiff's counsel, within **thirty (30) days from the date of this order**, at a time and place agreeable to the DOC and counsel for plaintiff. Plaintiff may take notes, but may not copy the report verbatim and will not be provided with a copy of the report. Dunning shall advise the court when the review has taken place.

3. **Personnel Records.** Plaintiff seeks the personnel records of Kasprenski. Defendants shall produce the file for inspection at the same time as the internal affairs report inspection.


UNITED STATES DISTRICT JUDGE